

telecommunications carrier from providing single-party service, access to enhanced 911 service, or toll limitation. The period should extend only as long as the relevant state commission finds that exceptional circumstances exist and should not extend beyond the time that the state commission deems necessary for that eligible telecommunications carrier to complete network upgrades. An otherwise eligible telecommunications carrier that is incapable of offering one or more of these three specific universal services must demonstrate to the state commission that exceptional circumstances exist with respect to each service for which the carrier desires a grant of additional time to complete network upgrades.

Consistent with the above sections, the Commission issued a General Order dated May 20, 2004, which establishes specific public interest criteria applicable for applications seeking ETC designation in areas served by rural telecommunications carriers.

Finally, Rule 57 of the Louisiana Public Service Commission's Rules of Practice and Procedure, provides as follows,

Every ruling of an administrative law judge shall be subject to review by the Commission upon its own motion. **The Commission may also, upon its own motion, assert its original and primary jurisdiction and consider any question or issue pending before an Administrative Law Judge.** (Emphasis added).

Background and Procedural History

Nextel filed an application with the Commission on April 24, 2003 seeking designation as an ETC pursuant to § 214(e)(6) of the Communications Act of 1934 for the purposes of receiving federal universal service support in Louisiana.³ Notice of the application was published in the Commission's Official Bulletin dated May 9, 2003 with an intervention period of 25 days.

Timely interventions were filed by the following: The Small Company Committee ("SCC"); Lafourche Telephone Company, LLC; EATEL; Elizabeth Telephone Company; Cameron Telephone Company; CenturyTel of Northwest Louisiana, Inc.; CenturyTel of Central Louisiana, LLC; CenturyTel of Ringgold, LLC; CenturyTel of Southeast Louisiana, Inc.; CenturyTel of North Louisiana, LLC; CenturyTel of East Louisiana, LLC and CenturyTel of Southwest Louisiana, LLC; CenturyTel of Evangeline, LLC; CenturyTel of Chatham, LLC; Centennial Wireless, and Cox Louisiana Telecom.

On June 23, 2003 a status conference was held during which the parties agreed that the issues may be presented for decision to the tribunal through briefing, but scheduled a hearing date in the event it may be necessary. In accordance with the procedural deadlines established at the June 23, 2003 status conference, comments were received from the Small Company Committee and Cameron and Elizabeth Telephone, and reply comments from Nextel. A hearing was conducted before the Administrative Hearings Division on September 29, 2003, wherein the parties presented oral argument before the ALJ. Following this hearing, both the Small Company Committee and Nextel filed post-hearing briefs. Prior to any recommendation being issued by the ALJ, the Commission, at its March Business and Executive Session, directed the Administrative Hearings Division to stay all pending requests for ETC designation in rural areas until the Commission established specific public interest criteria applicable to such requests.

³ The Communications Act of 1934 was revised in 1996 and is now referred to as the Telecommunications Act of 1996.

Following the issuance of the General Order dated May 20, 2004, which established said public interest criteria, the Commission pursuant to its Rule 57 authority, exercised its primary jurisdiction over Nextel's request so that the matter might be considered at its June 9, 2004 Business and Executive Session.

Commission's Consideration

Nextel's request was considered by the Commission, pursuant to Rule 57, at its June 9, 2004 Business and Executive Session. Commissioner Field presented the following motion on the request:

In accordance with Rule 57 of the Commission's Rules of Practice and Procedure, I move that the Commission assert its original and primary jurisdiction over Nextel Partner's application for federal ETC status, currently pending before the ALJ in Docket No. U-27289, and approve the application for the following reasons and subject to the following conditions:

- (1) Nextel Partner's filed its application for federal ETC status on April 24, 2003 - 14 months ago;
- (2) The parties in Docket No. U-27289 filed comments and briefs, and also held a hearing before the ALJ on September 29, 2003;
- (3) For Nextel Partners to meet the June 30, 2004 deadline established by federal law and be eligible to receive ETC funding for the last quarter of 2004 and start investing those funds in Louisiana, its ETC application must be considered at the June Business & Executive Session. Otherwise, Nextel Partners will be ineligible to receive any federal ETC support in 2004;
- (4) Based upon the record evidence, Nextel Partners meets all the criteria for ETC designation contained in Section 214(e)(1) of the Telecom Act, as it (1) is a common carrier, (2) currently provides each of the supported services required of an ETC under 47 C.F.R. Section 54.101(a), and will offer all of those services to its universal service customers once designated an ETC, (3) advertises the availability of the supported services and charges using media of general distribution, (4) offers the required services using its own facilities or a combination of its own facilities and another carrier's services, and (5) identified the service areas through which it will offer and advertise the supported services;
- (5) In addition to the criteria listed above, in Docket No. R-27841, the Commission established *Public Interest* criteria and conditions that must be applied on a case-by-case basis to carriers seeking ETC designation in rural service areas of the State, and issued General Order dated May 20, 2004, setting forth conditions that must be satisfied by and applied to each applicant applying for ETC status in the Rural ILEC areas of the State;
- (6) Granting Nextel Partners' ETC application is consistent with the Public Interest and Nextel Partners satisfies the Public Interest criteria set forth in Commission General Order dated May 20, 2004;
- (7) Nextel Partners' ETC status shall be subject to and conditioned upon Nextel's continued satisfaction of and compliance with each of the public interest criteria and conditions established by Commission General Order dated May 20, 2004;
- (8) In addition to the requirements and obligations set forth in Commission General Order dated May 20, 2004, Nextel Partners' ETC status will be subject to the following specific conditions and obligations:
- (9) Nextel Partners shall ensure a commitment to quality of service consistent with the public interest by committing to -

Respond to reasonable requests for service from customers within its designated service areas by implementing the following six-step procedure:

- A. If a request comes from a customer within its existing network, Nextel Partners will promptly provide service using customer equipment selected by the customer. In practice, if Nextel Partners receives a request for service prior to 4:00 P.M., the phone will be delivered by overnight mail the following morning.
- B. If a customer cannot be served by existing network facilities, Nextel Partners will allow the customer to make a written request for service in a

specific location. In response, Nextel Partners will take a series of steps to provide service:

- 1) Nextel Partners will determine whether the customer's equipment can be modified or replaced to provide service in a desired location.
- 2) Nextel Partners will determine whether the customer could be provided with other network equipment (booster, antenna, or 3-watt unit) to provide service in the requested location.
- 3) Nextel Partners will determine whether adjustments at the nearest cell site can be made to provide service.
- 4) Nextel Partners will determine whether there are any other adjustments to either the network or the customer's facilities that can be made to provide service.
- 5) Nextel Partners will explore the possibility of offering resold service of carriers that have facilities available to provide service in that location.
- 6) Nextel Partners will determine whether additional network infrastructure (additional cell site, extender or repeater) could be constructed to provide service, and evaluate the costs and benefits of using high-cost universal service support to serve a number of customers requesting service.

If, after these steps, the customer cannot be served, Nextel Partners will notify the customer and provide the Commission with an annual report of how many requests for service could not be filled.

- (10) Nextel Partners commits to construct and put into operation twelve (12) additional cell sites through July 2005 and twelve (12) additional cell sites through 2006 in the service areas where it is designated as an ETC. Nextel Partners has submitted to the Commission its preliminary build-out plans pursuant to Rule 12.1 governing trade secret, confidential and proprietary information for review by Staff and Commissioners. The specific parameters of the build-out plans may evolve over time as Nextel Partners responds to consumer demand. Nextel Partners will submit information to the Commission on a quarterly basis detailing its progress toward meeting its build-out plans in the service areas where it is designated as an ETC;
- (11) Nextel Partners will use all federal high-cost support provided to it within the State of Louisiana and only for the provision, maintenance and upgrading of facilities and services for which the support is intended as required by 47 U.S.C. Section 254(e) and 47 C.F.R. Section 54.313(a);
- (12) Nextel Partners seeks to serve the entire Rural Telephone Company study areas for rural areas where it is designated an ETC. Nextel Partners does not seek to redefine any Rural ILEC study areas.

Therefore, in light of the commitments made by Nextel Partners, and subject to each criteria and condition of Commission General Order dated May 20, 2004, I move that we grant Nextel Partners' application for federal ETC status.

Commissioner Blossman seconded Commissioner Field's motion, with Commissioner Campbell voting yes, Commissioner Sittig voting no, and Commissioner Dixon abstaining.

IT IS THEREFORE ORDERED THAT

1. Nextel be designated an Eligible Telecommunication Carrier as requested in its application in Docket U-27289, for the purpose of receiving Universal Service Funds in the areas set forth in "Attachment A", subject to the conditions in the above motion.
2. This Order shall be effective immediately.


BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
June 29, 2004

IRMA MUSE DIXON ABSTAINS
DISTRICT III
CHAIRMAN IRMA MUSE DIXON

C. DALE SITTIG VOTING NO
DISTRICT IV
VICE CHAIRMAN C. DALE SITTIG

DISTRICT II
COMMISSIONER JAMES M. FIELD

DISTRICT I
COMMISSIONER JACK "JAY" A. BLOSSMAN


LAWRENCE C. ST. BLANC
SECRETARY

DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

ATTACHMENT A
Nextel Partners Designated ETC Study Areas and Wire Centers

1. Rural Telephone Company Study Areas

270423 Centurytel-Centr LA
270424 Centurytel-SE LA
270425 Cameron Tel Co-LA
270426 Campti-Pleasant Hill
270428 Delcambre Tel Co.
270430 Elizabeth Tel Co
270431 Centurytel-NW LA
270432 Kaplan Tel Co.
270434 Centurytel-Evangelin
270435 Northeast Louisiana
270436 Century North LA
270439 Centurytel-Ringgold
270441 Star Tel Co.
270442 Centurytel-SW LA

2. Non-Rural ILEC Wire Centers

275183 BellSouth

22ABVLLAMA
22ALXNLADV
22ALXNLAMA
22ALXNLATG
22ARCDLAMA
22BLNCLAMA
22BNTNLAMA
22BOYCLAMA
22BRSSLAMA
22BSTRLAMA
22BUNKLAMA
22CLFXLAMA
22CLHNLAMA
22CLMALAMA
22CRNCLAMA
22CRWYLAMA
22CSHTLAMA
22CWVLLAMA
22DBCHLAMA
22DELHLAMA
22DRDRLAMA
22DUSNLAMA
22DYLNLAMA
22EPPSLAMA
22ERTHLAMA
22EUNCLAMA
22FRDYLAMA
22GNWDLAMA
22GRCNLAMA
22GRNGLAMA
22GYDNLAMA
22HGTLAKN
22HGTLAMA
22HOMRLAMA
22JNGSLAMA
22JNRTLAMA
22JNVLLAMA
22KRSPLAMA



22KTCHLAMA
22KTVLLAMA
22LCMPLAMA
22LEVLLAFP
22LEVLLAMA
22LFYTLAMA
22LFYTLAVM
22LGPTLAMA
22LKARLAMA
22LKCHLADT
22LKCHLAMB
22LKCHLAMW
22LKCHLAUN
22LOVLLAMA
22LRVLLAMA
22LWTLLAMA
22MKVLLAMN
22MNFDLAMA
22MNVLLAMA
22MONRLADS
22MONRLAMA
22MONRLAWM
22MRCYLAIN
22MTGMLAMA
22MYVLLAMA
22NTCHLAMA
22NWIBLAMA
22OKDLLAMA
22OLCYLAMA
22OPLSLATL
22PASNLABV
22PLLCLAMA
22PRPRLAMA
22PTBRLAMA
22RAYNLAMA
22RBLNLAMA
22RSTNLAMA
22RYVLLAMA
22SHPTLABS
22SHPTLACL
22SHPTLAHD
22SHPTLAMA
22SHPTLAQB
22SHPTLASG
22SLPHLAMA
22SMVLLAMA
22STJSLAMA
22SWLKLAMA
22TLLHLAMA
22VNTNLAMA
22WASHLAMA
22WKISLAMA
22YNVLLAMA